

**Entered on Docket  
January 21, 2015**  
**EDWARD J. EMMONS, CLERK  
U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA**



**IT IS SO ORDERED.**  
Signed January 21, 2015

**Arthur S. Weissbrodt  
U.S. Bankruptcy Judge**

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

11 In re ] Case No. 14-50146-ASW  
12 CHOU TUNG WANG, ] Chapter 11  
13 Debtor. ]  
14 \_\_\_\_\_ ]  
15 CHINA EXPORT FINANCE LIMITED, ] Adv. Pro. No. 14-05078-ASW  
16 Plaintiff, ]  
17 v. ] Hearing Date: Jan 22, 2015  
18 SHOU TUNG WANG, ] Hearing Time: 2:15 p.m.  
19 Defendant. ]  
19 \_\_\_\_\_ ]

**MEMORANDUM DECISION RE: MOTION TO ALTER OR AMEND**

21 Before the Court is the motion of Defendant Shou Tung Wang  
22 ("Wang"), who is represented by attorney Steven Sibley, to alter or  
23 amend this Court's Tentative Decision issued on November 13, 2014,  
24 and made final at a hearing on that same date ("Decision"). The  
25 motion is opposed by Plaintiff China Export Finance Limited  
26 ("CEFL"), which is represented by attorney David Cook.

27 In the Decision, the Court stated its reasons for denying  
28 Wang's motion for summary judgment seeking to avoid CEFL's judicial

1 lien as impairing Wang's homestead. The Court found that there was  
2 a genuine issue of material fact as to the validity of the seven  
3 deeds of trust recorded after the effective date of CEFL's judgment  
4 lien. In the course of analyzing the motion, the Court stated:  
5 "CEFL contends that these deeds of trust were fraudulently granted  
6 in an attempt to hinder and delay CEFL's ability to collect its  
7 judgment. If that is proven, and those liens are invalidated,  
8 CEFL's judicial lien would not be subject to avoidance under  
9 § 522(f) because it would no longer impair Wang's homestead  
10 exemption."

11 Wang asks the Court to alter or delete the last quoted  
12 sentence. Wang contends that the cited language conflicts with  
13 Wang's uncontested computation in his lien avoidance motion that  
14 even if all the individual deeds of trust were excluded from the  
15 avoidance calculation, CEFL's judgment lien is secured in the  
16 amount of \$30,994.

17 The Court agrees that the Decision should be amended; the  
18 phrasing of the sentence does not correctly reflect the Court's  
19 intention. The sentence was not intended to be a finding by the  
20 Court, but a statement of CEFL's position.

21 Under Fed. R. Civ. P. 60(b)(1), the Court may correct a  
22 mistake arising from oversight or omission whenever one is found in  
23 a judgment, order, or other part of the record, and may do so on  
24 motion or sua sponte. Because the Court's intent was not clearly  
25 stated in the Decision, the Court will issue an order under Fed. R.  
26 Civ. P. 60(b)(1) (applicable via Fed. R. Bankr. P. 9024) amending  
27 the Decision to correct the sentence to read: "If that is proven,  
28 and those liens are invalidated, *CEFL contends that its judicial*

1 lien would not be subject to avoidance under § 522(f) because it  
2 would no longer impair Wang's homestead exemption."

CEFL raises a number of arguments in its opposition. CEFL contends that collateral estoppel bars reconsideration and that the motion does not meet the standard for a motion for reconsideration. CEFL also disputes Wang's position that CEFL's lien may still be avoided if the disputed liens are avoided. None of these arguments is applicable, given that the phrasing of the Decision was an oversight by the Court and does not represent the Court's intention. It would be manifest error of fact and law to leave the erroneous language in the Court's Decision. CEFL's objections are overruled.

To be clear, the Court is not making a finding as to the avoidability of CEFL's lien. If and when the validity of the disputed liens is litigated, the Court will consider the proper calculation to determine whether CEFL's lien impairs Wang's homestead exemption.

\*\*\* END OF MEMORANDUM DECISION \*\*\*

## Court Service List

Parties to be served electronically.